

HIGH COURT OF UTTARAKHAND AT – NAINITAL.

Writ Petition No. 897 (S/S)2003

Anil Kumar Kala S/o Sri Devi Prasad Kala,
R/o village Sheela, P.O. Banghat,
Via- Satpuli, Pauri Garhwal.

.....Petitioner.

Vs.

State of Uttaranchal through Secretary
Education, Uttaranchal, Dehradun,
And another.

.....Respondents.

Sri H.M. Raturi, learned counsel for the petitioner,
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri H.M. Raturi, learned counsel for the petitioner and learned Standing Counsel for the respondents.

By means of this writ petition, the petitioner has prayed for a writ, order or direction in the nature of mandamus commanding the respondents to appoint the petitioner on the post of Assistant Teacher, Science /Maths.

The facts of case, in brief, are that the petitioner in pursuance to the advertisement issued in the year 1997 for the post of Assistant Teacher Science/ Maths, applied alongwith all the relevant documents. The Committee, constituted for selection of the candidates declared successful those candidates who have received less quality point marks than the petitioner and the petitioner was denied for appointment. The petitioner has moved a representation to the authority who has paid no heed, therefore, he was compelled to file the present writ petition.

On 27.08.2003 this court has provided order to the effect that in the meantime, the representation of the petitioner shall be decided by the authority concerned.

A Short counter affidavit has been filed by the Regional Joint Director of Education, Garhwal Mandal, Pauri. In para-2 of the counter affidavit, the respondents have submitted that in compliance of the order passed by this Court, the respondents have considered the case of the petitioner in accordance with the rules and regulations and after perusal of the entire record pertaining to the services of the petitioner. It was revealed from the record that the select Committee has made

endorsement that the petitioner is not qualified because in the graduation he was not having Chemistry subject and consequently the representation of the petition was rejected. Thereafter, when the petitioner again approached to reconsider the representation, the entire record was again perused and thereupon it was found that the petitioner was qualified and was found having Chemistry subject in B.Sc Examination, therefore, the contention of the petitioner was found correct, as such, he was given appointment on the post of Assistant Teacher in L.T. Grade. The petitioner has been posted as Assistant Teacher in G.I.C. Khirsu district Pauri Garhwal and in pursuance to the order of this Hon'ble Court, the petitioner has already been appointed.

Since the relief sought by the petitioner has already been granted by the respondents, therefore, the writ petition has become infructuous.

The petitioner has submitted that since there is endorsement in the appointment letter that the appointment of the petitioner shall be subject to the decision of the writ petition and in case the writ petition is dismissed as infructuous, the appointment of the petitioner shall be cancelled. But there is no question of cancellation of the appointment letter, because the respondent have found that the stand taken by the petitioner that the petitioner was qualified to be appointed as Assistant Teacher and after perusal of the entire record the endorsement made by the Selection Committee was found wrong, consequently the petitioner has been given appointment on the post of Assistant Teacher.

IN above circumstances, the writ petition is allowed accordingly.
No as to costs.

(M.M. Ghildiyal, J.)

July 14, 2004:
NCM: